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Brown Raymond Millstein
Felder & Steiner
900 Third Avenue
New York, NY 10022

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OFFICE OF PETITIONS

In re Application
Victor Shashoua
Application No. 09/715,763
Filed: November 17, 2000
Atty Docket No. CMX-001. US

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: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT
:

This is a decision on the "PETITION TO CORRECT PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)," filed November 24, 2004. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from three hundred fifteen (315) days to five hundred thirty-six (536) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is five hundred thirty-six (536) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 26, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 315 days. On November 24, 2004, applicant timely¹ submitted an application for patent term adjustment (with required fee). Applicant disputes the period of adjustment for Office failure to mail a first action under 35 U.S.C. 132. Applicant maintains that in accordance with 37 C.F.R. 1.703, the period of adjustment for Office delay in mailing the first Office action under 35 U.S.C. 132 is 554 days. Specifically, applicant states that such action was mailed on July 25, 2003, 554 days after the fourteen month date.

Applicant states that the patent issuing from the application is not subject to a terminal disclaimer.

A review of the application history confirms that the number of days in the period of adjustment pursuant to § 1.703(a)(1) for

¹ PALM records indicate that the Issue Fee payment was also received in the Office on November 24, 2004.

the Office's mailing of a first action under 35 U.S.C. 132 on July 25, 2003, is 554 days, counting the number of days beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), January 18, 2002, and ending on the date of the mailing of the first action under 35 U.S.C. 132, July 25, 2003.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is five hundred thirty-six (536) days (554 days of Office delay reduced by 18 days for Applicant delay).

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Patent Publication for timely issuance of the patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Karin A. Ferriter
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Attachment: Copy of Revised PAIR Screen